



September 5, 2007

**AGENDA LETTER – PUBLIC HEARING**

Commissioners Court  
1001 Preston, 9<sup>th</sup> Floor  
Houston, TX 77002

Dear Court Members:

Vote of the Court:	Yes	No	Abstain
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Juvenile Curfew Review Committee has completed its review of the Juvenile Curfew Order, its effects on the community as well as the problems the Juvenile Curfew was intended to remedy. The committee conducted Public Hearings on the need to continue the Juvenile Curfew and possibly expand curfew hours from 9 a.m. until 2 p.m. on school days. These hearings were held on August 21, 2007, and August 29, 2007.

It is the opinion of the Juvenile Curfew Review Committee that the current Juvenile Curfew (12-midnight until 6 a.m.) has been successful in deterring criminal conduct involving juveniles, has reduced the number of juveniles victimized by crime, and continues to be a useful and effective tool for law enforcement in dealing with juvenile crime. However, the committee will require additional information before any expansion of the current hours can be recommended.

The Juvenile Curfew Review Committee recommends for your consideration that the current Juvenile Curfew be adopted, and the Order Continuing the Juvenile Curfew, Containing Findings and Other Provisions Relating to the Curfew, Declaring Certain Conduct to be Unlawful, and Providing Penalties, and Providing for Severability, effective October 1, 2004, be adopted.

It is further recommended that a public hearing be held on September 11, 2007, during the regular Commissioners Court meeting to consider adoption of an order continuing the Juvenile Curfew.

Presented to Commissioner's Court

SEP 11 2007

APPROVE R/K

Recorded Vol 247 Page 1001-1009

In accordance with the provisions of Texas Local Government Code 370.002, Commissioners Court must act before October 1, 2007, the third year after the adoption of the Juvenile Curfew effective October 1, 2004, to abolish, continue, or modify the Curfew. I respectfully request the Court act to adopt the Harris County Juvenile Curfew and that the Juvenile Curfew Review Committee continue its work regarding the possible expansion of curfew hours.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Ed Emmett". The signature is written in a cursive style with a small "JL" or similar mark at the bottom right of the name.

Ed Emmett  
County Judge

EME/DPA/kc  
Attachment

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF HARRIS     §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on SEP 11 2007, with the following members present, to wit:

Ed Emmett  
El Franco Lee  
Sylvia Garcia  
Steve Radack  
Jerry Eversole

County Judge  
Commissioner, Precinct No. 1  
Commissioner, Precinct No. 2  
Commissioner, Precinct No. 3  
Commissioner, Precinct No. 4

and the following members absent, to wit:

none  
constituting a quorum, when among other business, the following was transacted:

ORDER CONTINUING THE JUVENILE CURFEW, CONTAINING FINDINGS AND  
OTHER PROVISIONS RELATING TO THE CURFEW, DECLARING CERTAIN  
CONDUCT TO BE UNLAWFUL, AND PROVIDING PENALTIES, AND  
PROVIDING FOR SEVERABILITY

Commissioner Radack introduced an Order and made a motion that the same be adopted. Commissioner Lee seconded the motion for adoption of the Order. The motion, carrying with it the adoption of the Order, prevailed by the following vote:

	Yes	No	Abstain
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the Order had been duly and lawfully adopted. The Order thus adopted follows:

Presented to Commissioner's Court

SEP 11 2007

APPROVE \_\_\_\_\_

Recorded Vol \_\_\_\_\_ Page \_\_\_\_\_

ORDER CONTINUING THE JUVENILE CURFEW, CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT, DECLARING CERTAIN CONDUCT TO BE UNLAWFUL, AND PROVIDING PENALTIES THEREFORE, AND PROVIDING FOR SEVERABILITY

*Preamble*

The Commissioners Court of Harris County finds and declares that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, or disability, to be secure and protected from intimidation and physical harm caused by the activities of violent groups and individuals.

The Commissioners Court of Harris County has determined that juvenile violence, juvenile gang activity, and crimes by and against persons under the age of seventeen continue in the unincorporated areas of Harris County.

Persons under the age of seventeen are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime.

The Commissioners Court of Harris County has an obligation for the protection of minors from each other and from other persons, for the enforcement of parental control of and responsibility for their children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

It is not the intent of this Order to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. Further, the juvenile curfew shall be enforced without respect to race, color, creed, religion, national origin, sex, or disability.

It is the opinion of the Commissioners Court that parents and guardians have a responsibility to supervise and control their minor children.

Pursuant to Tex. Loc. Gov't. Code Ann. §351.903, as amended, the Commissioners Court has the power to adopt a curfew to regulate, in the unincorporated areas of Harris County, the movements or actions of persons under seventeen years of age during the period beginning one-half hour after sunset and extending until one-half hour before sunrise or during school hours, or both.

A public hearing was held for the purposes of obtaining written and testimonial information concerning the effects of the curfew on the community and on problems the curfew was intended to remedy, and the need to continue, modify, or abolish the curfew.

A curfew for those under seventeen years of age will be in the best interest of the public health, safety, and general welfare and will help attain the foregoing objectives

and diminish the undesirable impact of such conduct on the citizens of Harris County. The current juvenile curfew has been effective in deterring criminal conduct involving juveniles, has reduced the number of juveniles committing crime, and continues to be a useful and effective tool for law enforcement in dealing with juvenile crime.

It is the opinion of the Commissioners Court that in order to preserve the public peace, health, safety, and welfare of the citizens of Harris County, the juvenile curfew should be continued.

Further, it is the opinion of the Commissioners Court that the current Juvenile Curfew Review Committee be continued for the purpose of collecting information necessary to consider the expansion of the current curfew hours.

### ***ORDER***

BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS THAT:

Section 1. The facts and matters set forth in the preamble of this Order are determined to be true and correct and are adopted as part of this Order.

Section 2. *Purpose.* It is the express purpose of this Order to deter criminal conduct involving juveniles, reduce the number of juvenile crime victims, reduce injury from accidents involving juveniles, reduce the additional time peace officers are required to be in the field due to juvenile crime, provide additional and more effective means and options for dealing with gang-related violence and crime, reduce juvenile peer pressure to stay out late, reduce juvenile peer pressure to participate in violent or criminal activities, and assist parents in the control of their children.

Section 3. *Definitions.* The following words, terms, and phrases when used in this Order shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

*Adult* means any person seventeen years of age or older.

*Curfew hours* means the period between the hours of twelve o'clock a.m. (midnight) until 6:00 a.m., on any day of the week.

*Custodian* means the adult with whom the minor resides or an adult authorized or designated by a parent, guardian, or a court of competent jurisdiction to supervise and control a minor.

*Emergency* means an unforeseeable combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a

fire, natural disaster, vehicular accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

*Establishment* means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement or entertainment.

*Guardian* means the person who, under court order, is the guardian of the person of the child or the public or private agency with whom the child has been placed by a court.

*Minor* means any person under seventeen years of age.

*Operator* means any individual, firm, association, partnership, or corporation that operates, manages or conducts any establishment and includes the members of an association, partners of a partnership, and the officers of a corporation.

*Order* means the "Order Continuing the Juvenile Curfew, Containing Findings and Other Provisions Relating to the Foregoing Subject, Declaring Certain Conduct to be Unlawful, and Providing Penalties, and Providing for Severability," adopted on September 14, 2004, and effective October 1, 2004.

*Parent* means the mother, the father, stepparent, or an adoptive parent of a child and includes a managing conservator, joint managing conservator, and possessory conservator appointed by court order, but does not include a parent whose parental rights have been terminated.

*Peace officer* is a person elected, employed, or appointed as a peace officer under TEX. CODE CRIM. PROC. art. 2.12, TEX. EDUC. CODE §§ 37.081, 51.203, 51.212, or 51.214, or other law.

*Public place* means any place or establishment to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartments, office buildings, transport facilities, restaurants, theaters, game rooms, shops, and shopping centers.

*Remain* means:

(a) to linger or stay; or

(b) to fail to leave premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.

*Responsible Adult* means a parent, guardian, or custodian.

*Serious bodily injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

*Unincorporated Harris County* means that portion of Harris County, Texas, that is not within the corporate boundaries of a municipality, town, or village.

Section 4. *Applicability.* This Order shall apply to all portions of unincorporated Harris County.

Section 5. *Offenses.*

- 5.1 A minor commits an offense if the minor knowingly remains, walks, runs, stands, drives, rides, or otherwise is present about, in, or upon any public place in unincorporated Harris County during curfew hours.
- 5.2 A Responsible Adult commits an offense if the Responsible Adult knowingly allows or permits the minor to remain, walk, run, stand, drive, ride, or otherwise be present about, in, or upon any public place in unincorporated Harris County during curfew hours.
- 5.3 The owner, operator, or any other person in control of a public place commits an offense if that person knowingly allows or permits a minor to remain upon the premises of the public place during curfew hours.
- 5.4 Violations of this section shall be punishable as provided in Section 9 of this Order.

Section 6. *Defenses.*

- 6.1 It shall be a defense to prosecution under Section 5.1 of this Order that the minor was:
  - (a) accompanied by a Responsible Adult;
  - (b) in a motor vehicle or aircraft involved in interstate travel with the consent of a Responsible Adult;
  - (c) engaged in a lawful employment activity, or going to or returning home from a lawful employment activity, without detour or stop;
  - (d) involved in an emergency;
  - (e) on the sidewalk, abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to a peace officer about the minor's presence;
  - (f) attending, engaging in, participating in, or traveling to or from
    - (1) a school-sponsored or church-affiliated activity or
    - (2) a recreational activity supervised by adults and sponsored by
      - (i) a governmental entity,
      - (ii) a civic, non-profit organization, or
      - (iii) another similar entity that takes responsibility for the minors attending or participating; or

(g) is or was married or had disabilities of minority removed by order entered by a court of competent jurisdiction.

- 6.2 It is a defense to prosecution under Section 5.3 that the owner, operator, or other person in control of a public place promptly notified a peace officer that a minor was present on the premises of the public place during curfew hours and refused to leave.

**Section 7. *Supplemental Effect.*** The provisions of this Order are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.

**Section 8. *Enforcement.***

- 8.1 The provisions of this Order may be enforced by any peace officer. Each law enforcement agency which enforces these regulations shall designate juvenile curfew processing offices to be used by its respective peace officers when enforcing this Order.
- 8.2 Before taking any enforcement action under this Order, a peace officer shall ask the alleged offender's age and reason for being in the public place. The peace officer taking a minor into custody for violation of this Order shall, without unnecessary delay:
- (a) release the minor to the minor's parent, guardian, or custodian;
  - (b) take the minor before a justice court to answer the charge; or
  - (c) take the minor to one of the designated juvenile curfew processing offices.

**Section 9. *Penalties.*** An offense under this Order is a Class C misdemeanor.

**Section 10. *Severability.*** The provisions of this Order are severable. If any word, phrase, clause, sentence, section, provision, or part of this Order should be held invalid or unconstitutional, it shall not affect the validity of the remaining provisions, and it is hereby declared to be the intent of the Commissioners Court that this Order would have been adopted as to the remaining portions, regardless of the invalidity of any part.

**Section 11. *Effective Date.*** This Order shall continue the Order adopted on September 14, 2004, effective October 1, 2004, Continuing the Juvenile Curfew, Containing Findings and Other Provisions Relating to the Curfew, Declaring Certain Conduct to be Unlawful, and Providing Penalties, and Providing for Severability, and shall be effective as of October 1, 2007.



REVIEW AND RECOMMENDATIONS OF THE HARRIS COUNTY JUVENILE  
CURFEW COMMITTEE PRIOR TO RECONSIDERATION OF THE ORDER  
CONTINUING A JUVENILE CURFEW, CONTAINING FINDINGS AND OTHER  
PROVISIONS RELATING TO THE CURFEW, DECLARING CERTAIN CONDUCT  
TO BE UNLAWFUL, AND PROVIDING PENALTIES, AND PROVIDING FOR  
SEVERABILITY, EFFECTIVE OCTOBER 1, 2007

1.     Appointment of Committee

On July 10, 2007, Commissioners Court appointed a Juvenile Curfew Review committee to review the existing Harris County Juvenile Curfew and to recommend any changes for Commissioners Court consideration.

Members of the Juvenile Curfew Review Committee include:

Mr. Doug Adkinson and Mr. Gene Mosley, representing Hon. Ed Emmett, County Judge;  
Mr. John Beaudion, Jr., representing Hon. El Franco Lee, Commissioner, Precinct 1;  
Ms. Gloria Moreno, representing Hon. Sylvia R. Garcia, Commissioner, Precinct 2;  
Mr. Bob Kendrick, representing Hon. Steve Radack, Commissioner, Precinct 3;  
Ms. Joanye Henderson and Ms. Elizabeth Estrada, representing Hon. Jerry Eversole, Commissioner, Precinct 4;  
Ms. Janet Marton, representing Harris County Attorney Mike Stafford;  
Mr. Bill Hawkins, representing District Attorney Charles A. Rosenthal, Jr.;  
Major Robert Van Pelt, representing Sheriff Tommy Thomas;  
Captain Romeo Chapa, representing Precinct 5 Constable Phil Camus;  
Captain Tyrone Berry, representing Precinct 6 Constable Victor Trevino;  
Hon. Jo Ann Delgado, Justice of the Peace, Precinct 2, Place 1;  
Ms. Kerri Lea Keels, representing Hon. Russ Ridgeway, Justice of the Peace, Precinct 5, Place 1;  
Ms. LuAnn McCoy, representing the Juvenile Probation Department; and  
Ms. Deborah Colby, representing Protective Services for Children and Adults.

2.     Public Hearing.

Notice of Hearing.

On July 10, 2007, Commissioners Court scheduled a public hearing to be held on Tuesday, September 11, 2007, at 10:00 AM in Commissioners Court, 1001 Preston, 9<sup>th</sup> Floor, Houston, Texas 77002, on the need to continue the Harris County Juvenile Curfew. Two additional public hearings were held by the Juvenile Curfew Review Committee on August 21, 2007, and August 29, 2007.

Notice of all public hearings was posted.

### 3. Evidence received by the committee

The committee received no complaints or issues regarding the current evening juvenile curfew (12-midnight until 6 a.m.). The evening curfew continues to serve as a deterrent to juvenile crime and delinquency. It is the consensus of the committee that the evening juvenile curfew serves as an effective tool for both law enforcement and parents and should be continued. Harris County law enforcement officers have issued citations for 2458 curfew-related violations to juveniles from January 1, 2004, until December 31, 2006.

At the August 21, 2007, public hearing Juvenile Division Chief Bill Hawkins, representing District Attorney Chuck Rosenthal, reported that home burglaries in the unincorporated areas of Harris County are increasing, especially daytime (6 a.m. to 6 p.m.) burglaries. Twenty-five percent of those arrested for burglary in 2005 were juveniles. In 2006, the number of juveniles arrested increased to 29% of all burglary arrests. There was no public comment received at this public hearing.

At the August 29, 2007, public hearing Mr. Hawkins reported that the City of Charlotte, North Carolina, experienced a 10% decrease in daytime burglaries when a daytime curfew was implemented. He noted that Houston, Pasadena, and a number of other cities have adopted daytime curfews and that a daytime curfew could reduce the number of truancy cases. Although the District Attorney's Office believes strongly that the need for a daytime curfew exists, Mr. Hawkins noted that District Attorney Rosenthal is not averse to the committee's continuing its study during the next year.

All public comment received by the committee at this hearing was in opposition to any proposal to expand the juvenile curfew to include daytime hours. Those who addressed the committee expressed concern regarding how a daytime curfew would infringe on their right to educate their children at home.

Ms. Joy Yates expressed concern that students would have to prove their innocence when attending an outdoor activity during daytime hours.

Ms. Rebecca Rex noted that a daytime curfew would not stop truancy.

Ms. Alice Purcell requested that current laws be enforced before creating laws that criminalize innocent activities.

Ms. Jube Dankworth noted there are approximately 45,000 home-schooled children in Harris and nearby counties. She also noted that not all school districts have the same school-year calendar.

A number of additional public speakers expressed their opposition to a daytime curfew. The committee has received over 100 e-mails in opposition to a daytime curfew.

County Judge Ed Emmett is opposed to any expansion of the current juvenile curfew to daytime hours.

Sheriff Tommy Thomas and Pct. 5 Constable Phil Camus support retention of the current evening juvenile curfew. Both Sheriff Thomas and Constable Camus have requested the committee seek additional information before considering an expansion of curfew hours.

Pct. 2 Constable Gary Freeman and Pct. 8 Constable Bill Bailey are in support of a daytime curfew.

#### 4. Conclusions

It is the opinion of the committee that the current evening curfew has been successful in deterring criminal conduct involving juveniles, has reduced the number of juveniles victimized by crime, and continues to be a useful and effective tool for law enforcement in dealing with juvenile crime and should be retained for an additional three years.

The committee is aware of the rapid growth in population that is occurring in the unincorporated areas of Harris County. As noted earlier there has been a corresponding growth in the number of home burglaries experienced in these communities. However, the committee is of the opinion that additional information is required before it can make an informed decision regarding the merits of a possible daytime curfew.

#### 5. Recommendation

The committee recommends for Commissioners Court consideration that the current evening Juvenile Curfew be continued, and that the Order Continuing the Juvenile Curfew, Containing Findings and Other Provisions Relating to the Juvenile Curfew, Declaring Certain Conduct to be Unlawful, and Providing Penalties, and Providing for Severability, adopted September 14, 2004, and effective October 1, 2004, be continued.

The committee further recommends Commissioners Court authorization to seek additional information regarding the necessity and potential impact of a daytime curfew.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Doug Adkinson", with a stylized flourish at the end.

Doug Adkinson, Chairman  
Juvenile Curfew Review Committee  
September 5, 2007